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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/645,550	08/22/2003	Kevin Wade Jameson	CFSTP015	9133

21912 7590 03/08/2007  
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EXAMINER
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RADTKE, MARK A

ART UNIT	PAPER NUMBER
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2165

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/08/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

## Office Action Summary

Application No.

10/645,550

Applicant(s)

JAMESON, KEVIN WADE

Examiner

Mark A. X Radtke

Art Unit

2165

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 26 December 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 22-42 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 22-42 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Remarks***

1. In response to communications filed on 26 December 2006, claim(s) 1-21 is/are cancelled and new claim(s) 22-42 is/are added per Applicant's request. Therefore, claims 22-42 are presently pending in the application, of which, claim(s) 22, 29 and 36 is/are presented in independent form.
2. In light of Applicant's amendments, the previous rejections are withdrawn. Applicant's amendments have necessitated new grounds of rejection.

### ***Double Patenting***

3. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

4. Claims 22, 29 and 36 of the instant application are provisionally rejected under the judicially created doctrine of double patenting over claims 1 and 9 of copending Application No. 10/645,487 (Jameson, U.S. Publication No. US 2005/0044095 A1).

Claims 22, 29 and 36 of the instant application are considered obvious over claims 1 and 9 of Patent Application No. 10/645,487 (Jameson, U.S. Publication No. US 2005/0044095 A1).

"A later patent claim is not patentably distinct from an earlier patent claim if the later claim is obvious over, or anticipated by, the earlier claim. In re Longi, 759 F.2d at 896, 225 USPQ at 651 (affirming a holding of obviousness-type double patenting because the claims at issue were obvious over claims in four prior art patents); In re Berg, 140 F.3d at 1437, 46 USPQ2d at 1233 (Fed. Cir. 1998) (affirming a holding of obviousness-type double patenting where a patent application claim to a genus is

anticipated by a patent claim to a species within that genus)." ELI LILLY AND COMPANY v BARR LABORATORIES, INC., United States Court of Appeals for the Federal Circuit, ON PETITION FOR REHEARING EN BANC (DECIDED: May 30, 2001).

***Claim Rejections - 35 USC § 101***

5. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

6. Claims 22-42 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claims 22-42 are directed to a system that performs a symbolic task operation. This claimed subject matter lacks a practical application of a judicial exception (law of nature, abstract idea, naturally occurring article/phenomenon) since it fails to produce a useful, concrete and tangible result. Specifically, the claimed subject matter does not produce a tangible result because the claimed subject matter fails to produce a result that is limited to having real world value rather than a result that may be interpreted to be abstract in nature as, for example, a thought, a computation or manipulated data. More specifically, the claimed subject matter provides for returning results to a request originator. As claimed, this originator may be another computer program or any other type of entity. Thus, there is no tangible result that is necessarily removed from the processor and presented to a user or stored

in memory. This produced result remains in the abstract and, thus, fails to achieve the required status of having real world value.

***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. Claims 22-42 are rejected under 35 U.S.C. 102(e) as being anticipated by Sundararajan (U.S. Patent 6,487,577).

As to claim 22, Sundararajan teaches method for performing a symbolic task operation on a collection, (see Abstract), comprising:

receiving a request from a request originator to perform a collection processing operation on a collection reference expression (see figure 6a and see column 7, lines 58-60, where “request originator” is read on “client” and where “collection processing operation” is read on “job”);

performing the collection processing operation on the collection (see column 7, lines 15-17, where “performs” is read on “executes”); and

returning results of the collection processing operation to the request originator (see column 7, lines 60-62)

wherein the request includes a symbolic task name and a collection reference expression, and wherein the collection includes collection specifier information and collection content information (see column 3, lines 51-62).

As to claims 23, 30 and 37, Sundararajan teaches wherein wherein performing the collection processing operation includes expanding the collection reference into a list of particular individual collections (See column 3, lines 51-61. Specifically, the database look-up portion of the citation discloses an ID number which can be used to “provide the SC computer with information on [...] the job”. See also column 4, lines 14-28.).

As to claims 24, 31 and 38, Sundararajan teaches wherein wherein performing the collection processing operation includes expanding the collection reference into a list of job triplets including an individual collection name, a computing platform name, and a processing dependency visit order value. (see column 3, lines 51-61 and see figure 7 and see column 8, lines 44-64).

As to claims 25, 32 and 39, Sundararajan teaches wherein

wherein performing the collection processing operation includes maintaining a proper execution ordering among collection symbolic job requests and lists of expanded job triplets (see figure 7 and see column 8, lines 44-64).

As to claims 26, 33 and 40, Sundararajan teaches wherein wherein performing the collection processing operation includes expanding a first-level symbolic task name into a sequence of second-level task part statements (see column 7, lines 1-12).

As to claims 27, 34 and 41, Sundararajan teaches wherein wherein performing the collection processing operation includes dynamically calculating a set of detailed executable commands (see column 4, lines 22-28).

As to claims 28, 35 and 42, Sundararajan teaches wherein wherein performing the collection processing operation includes executing platform-dependent computing commands (see column 5, lines 14-19).

As to claim 29, Sundararajan teaches a system for performing symbolic task operations on collections (see Abstract), including:

For the remaining steps of this claim applicant(s) is/are directed to the remarks and discussions made in claim 22 above.



As to claim 36, Sundararajan teaches a computer program product for performing a symbolic task operation on a collection (see Abstract), the computer program product being embodied in a computer readable medium and comprising computer instructions for:

For the remaining steps of this claim applicant(s) is/are directed to the remarks and discussions made in claim 22 above.

### ***Response to Arguments***

9. Applicant's arguments filed on 24 November 2006 with respect to the rejected claims in view of the cited references have been fully considered but are moot in view of the new grounds for rejection.

### ***Conclusion***

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

Art Unit: 2165

shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

11. Any inquiry concerning this communication or earlier communications should be directed to the examiner, Mark A. Radtke. The examiner's telephone number is (571) 272-7163, and the examiner can normally be reached between 9 AM and 5 PM, Monday through Friday.

If attempts to contact the examiner are unsuccessful, the examiner's supervisor, Jeffrey Gaffin, can be reached at (571) 272-4146.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to Customer Service at (800) 786-9199.

maxr  
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2 March 2007

TM  
3/3/2007

  
**HOSAIN ALAM**  
SUPERVISORY PATENT EXAMINER